

FCC MAIL SECTION

Federal Communications Commission

DA 99-1171

JUN 22 10 18 AM '99

DISPATCHED

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 98-189
Table of Allotments,)	RM-9377
FM Broadcast Stations.)	RM-9475
(Manzanita, Cannon Beach and Bay City,)	
Oregon) ¹)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 9, 1999

Released: June 18, 1999

By the Chief, Allocations Branch:

1. At the request of John L. Zolkoske ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 13 FCC Rcd 20877 (1988), proposing the allotment of Channel 235A to Manzanita, Oregon, as the community's first local aural service. A counterproposal was filed by Broad Spectrum Communications, Inc. ("Broad Spectrum"), requesting the substitution of Channel 235C3 for Channel 243A at Cannon Beach, Oregon, the modification of its license for Station KCBZ to specify the higher class channel, and the allotment of Channel 242A to Bay City, Oregon, as the community's first local aural service.² Comments were also filed by the petitioner, reiterating his intention to apply for Channel 235A at Manzanita, if allotted, and reply comments by the petitioner and Broad Spectrum.³

2. Broad Spectrum states if Channel 235C3 is allotted to Cannon Beach, Station KCBZ, the community's sole local aural service, could provide service to 38,365 persons, while a fully-spaced Class A station at Cannon Beach could serve only 20,158 persons.⁴ Further, the deletion of Channel 243A from Cannon Beach would enable the allotment of Channel 242A to Bay City, as its first local aural service. According to Broad Spectrum, Bay City is an incorporated

¹ The communities of Cannon Beach and Bay City have been added to the caption.

² Public Notice of the filing of the counterproposal was given on February 5, 1999, Report No. 2315.

³ Petitioner's comments were late-filed. In a subsequent pleading, he states that the comments were mailed on December 8, 1998, by U.S. Priority Mail, with the expectation that they would be received by the December 14, 1998, comment deadline. In light of petitioner's reply comments supporting the counterproposal filed by Broad Spectrum in which he states his intention to apply for Channel 242A, if allotted to Bay City, petitioner's comments supporting the Manzanita allotment are moot.

⁴ Station KCBZ's application for construction permit requested a waiver of the minimum distance separation requirements pursuant to the provisions of Section 73.215 of the Commission's Rules.

community with a 1990 U.S. Census population of 1,027 people, while Manzanita has a population of only 513 people. Bay City, according to Broad Spectrum, also has a city hall, a post office, a volunteer fire department and many retail establishments. In addition, it states that a Class A station at Bay City can provide service to 21,570 people while a Manzanita allotment could provide service to only 14,622 persons. In reply comments, petitioner states that if Channel 242A is allotted to Bay City, it will apply for the channel. No comments were received expressing a competing interest for use of Channel 235C3 at Cannon Beach.

3. We believe the public interest would be served by substituting Channel 235C3 for Channel 243A at Cannon Beach, Oregon, and modifying the license of Station KCBZ accordingly, since it could provide the community with a wide-coverage area FM service and enable the station to expand its service area. We believe the public interest would also be served by allotting Channel 242A to Bay City, Oregon, as the community's first local aural service. While Manzanita may also be deserving of a first local aural service, a staff engineering study finds that there are no alternate channels available to either Manzanita or Bay City. However, a comparison of the two communities is not necessary since the petitioner expressed his willingness to apply for Channel 242A, if allotted to Bay City, and no other party expressed an interest in applying for Channel 235A at Manzanita. Therefore, we will dismiss petitioner's proposal to allot Channel 235A to Manzanita. In accordance with Section 1.420(g), we will also modify Broad Spectrum's license for Station KVBZ to specify operation on Channel 235C3 at Cannon Beach.

4. Channel 242A can be allotted to Bay City in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. Channel 235C3 can be allotted to Cannon Beach in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.⁵ Canadian concurrence in the allotment of Channel 242A at Bay City and Channel 235C3 at Cannon Beach has been obtained since both communities are located within 320 kilometers (200 miles) of the U.S.-Canadian border.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective August 2, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Bay City, Oregon	242A
Cannon Beach, Oregon	235C3

⁵ The coordinates for Channel 242A at Bay City are 45-31-24 North Latitude and 123-53-18 West Longitude. The coordinates for Channel 235C3 at Cannon Beach are 45-53-42; 123-57-36.

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Broad Spectrum Communications, Inc., for Station KCBZ, Cannon Beach, Oregon, IS MODIFIED to specify operation on Channel 235C3, in lieu of Channel 243A, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Broad Spectrum Communications, Inc., licensee of Station KCBZ, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

8. A filing window for Channel 242A at Bay City, Oregon, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

9. IT IS FURTHER ORDERED, That the petition for rule making filed by John L. Zolkoske to allot Channel 235A to Manzanita, Oregon (RM-9377), IS DISMISSED.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau